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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,947	12/26/2001	Hsuan-Yin Lan-Hargest	12938-003002	8464
27890 7590 06/25/2008 STEP TOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036				
EXAMINER				
ZUCKER, PAUL A				
ART UNIT		PAPER NUMBER		
1621				
MAIL DATE		DELIVERY MODE		
06/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/025,947

Applicant(s)

LAN-HARGEST ET AL.

Examiner

Paul A. Zucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Current Status

1. This action is responsive to Applicants' amendment of 17 March 2008.
2. Receipt and entry of Applicants' amendment is acknowledged.
3. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103 are pending.
4. The rejections under 35 USC § 102, set forth in paragraphs 6 and 10 of the previous Office Action mailed 17 December 2007 are withdrawn in response to Applicant's amendment.

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New Rejections

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-90, and 102 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Chiusoli et al (US 4,355,168 10-1982). Chiusoli discloses (Column 4, lines 11-37) the compound 6-phenyl-3, 5-hexadienoic acid and its sodium salt in aqueous solution corresponding to a pharmaceutical composition. 6-phenyl-3, 5-hexadienoic acid corresponds to instantly claimed compounds in which A is phenyl (unsubstituted), L is a C₅ all trans diene, Y₁, Y₂=a bond (or L is a C₄ all trans diene, Y₁, =a bond Y₂=CH₂), X₁, X₂= O. No provisos

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apply. Chiusoli therefore anticipates claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-90, and 102.

6. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 91-94, 96, 97, 99 and 103 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Klessing et al (US 4,965,283 10-1990). Klessing discloses (Column 13, lines 39-58) the compound 3-methoxy-5-phenyl-2(E), 4(E)-pentadienoic acid and its solution in ethanol corresponding to a pharmaceutical composition. 3-methoxy-5-phenyl-2(E),4(E)-pentadienoic acid corresponds to instantly claimed compounds in which A is phenyl (unsubstituted), L is a C₄ all *trans* diene substituted with C₁ alkoxy, Y₁,Y₂=a bond and X₁,X₂= O. Klessing discloses (Column 14, line 50 - column 15, line 53) a variety of substituted phenyl compounds, and alcoholic solutions thereof, as well. No provisos apply. Klessing therefore anticipates claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 91-94, 96, 97, 99 and 103.

7. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Horsham et al (Journal of Agricultural and Food Chemistry, Metabolites of the Prototype Insecticide (2E,4E)-N-isobutyl-6-phenylhexa-2,4-dienamide. 2. Formation in Mouse and Rat Liver Microsomal Systems, Rat Hepatocytes, and Houseflies, 1989, 37(3), pages 781-786). Horsham discloses (Page 778, column1 top, figure 2, line c) the compound **6-OH-2**, 6-hydroxy-6-phenyl-2(E), 4(E)-hexadienoic acid. 6-hydroxy-6-phenyl-2(E), 4(E)-hexadienoic acid corresponds to instantly claimed compounds in which A is phenyl (unsubstituted), L is a C₅ all *trans* diene substituted with hydroxyl, Y₁,Y₂=a

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bond and $X_1, X_2 = O$. Horsham discloses (Page 780, column 1, top, Table III) the intraperitoneal administration of a pharmaceutical composition of the compound **6-OH-2**. Horsham therefore anticipates claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103.

Conclusion

8. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103 are pending. Claims 1-5, 7, 8, 12, 13, 16, 17, 22, 25, 26, 80-94, 96, 97 and 99-103 are finally rejected.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Zucker whose telephone number is 571-272-0650. The examiner can normally be reached on Monday-Friday 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Evonne Eyler can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul A. Zucker/
Primary Examiner,
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